



1038.1001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Ravi I. SHARMA
Serial No. : 10/528,164
Filed : March 14, 2005
For : INVERTED KEYBOARD INSTRUMENT
AND METHOD OF PLAYING THE
SAME
Group Art Unit : 2832
Examiner : Christopher J. Uhler
Confirmation No. : 6495

**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 705(B)**

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In accordance with 37 C.F.R. § 705(b), Applicant hereby requests reconsideration of the Determination Of Patent Term Adjustment of zero (0) days accompanying the Notice Of Allowance dated August 30, 2010. On information and belief, the U.S. Patent and Trademark Office (hereinafter "USPTO") bases such Determination on the indicated date of receipt of the inventor's Declaration, i.e., July 23, 2008.

As a basis for this Request, Applicant cites the following processing delays, which Applicant believes were unreasonably long, as well as other facts and circumstances for consideration by the USPTO:

1. Once the Application was formally revived on August 23, 2007, a Notice To File Missing Requirements - requesting the inventor's Declaration - was not mailed by the USPTO for an unreasonably long period of time, almost nine (9) months, i.e., not until May 8, 2008.

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2. unreasonably long delays were experienced by Applicant, spanning more than two (2) years, pursuant to his attempt to obtain a ruling from PCT Legal Administration on those facts and arguments set forth in his Petition To Withdraw Holding Of Abandonment dated November 19, 2006 - the operative facts and arguments of which, according to Decisions of PCT Legal Administration dated July 18 and 28, 2008, were never addressed despite Applicant's subsequent Reply To Decision On Petition To Withdraw Holding Of Abandonment dated April 26, 2007, Response To Decision On Renewed Petition To Withdraw Holding Of Abandonment dated May 1, 2008, and Request For Higher Level Review dated April 28, 2008;¹
3. intervening and contradictory Decisions were issued by PCT Legal Administration regarding the Petition, Reply and Response referenced in paragraph 2 above, namely, a Decision On Petition To Withdraw Holding Of Abandonment dated January 12, 2007 which held, in effect, "right rule, insufficient facts" and a Decision On Renewed Petition To Withdraw Holding Of Abandonment dated August 23, 2007 which then held, essentially, "wrong rule, sufficient facts", which Decision(s) necessitated Applicant's Reply, Response and Request, respectively, identified in paragraph 2 above;
4. PCT Legal Administration repeatedly reassigned Applicant's Petition matters from one Attorney Advisor to another at PCT Legal Administration, i.e., at least three reassignments, subsequent to Applicant's filing of the original Petition of November 19, 2006, which reassignments, Applicant believes, lead to the aforementioned delays and perhaps the contradictory Decisions, referenced in paragraphs 2 and 3 above;
5. the USPTO failed to timely process and mail a Notice Of Abandonment dated April 10, 2006, such Abandonment, according to the USPTO, having occurred on January 26, 2006;

¹ While Applicant's Petition and subsequent filings were specifically directed to (i) a pattern of misinformation provided repeatedly and consistently to Applicant's Counsel, not just orally by Attendants at the PCT Help Desk but in writing - on PRIVATE PAIR - as well, which mislead Applicant to take no corrective action regarding the Filing Fee, and (ii) PCT Legal Administration's misapplication of 37 C.F.R. § 1.2, PCT Legal Administration never addressed the false and misleading information provided to Applicant's Counsel by PRIVATE PAIR and the PCT Help Desk, collectively, as to the status of this Application, seemingly "dodging" a ruling on the same.

6. the USPTO failed to timely notify Applicant of its non-receipt of the Filing Fee during the more than ten (10) month period between Applicant's EARLY filing of the captioned Application on March 14, 2005 and expiration of the thirty (30) month period for National Stage entry in the United States of America, based upon the corresponding PCT Application, i.e., on January 26, 2006, the details of Applicant's position in this regard being documented in the Petition, Reply and Response identified in paragraph 2 above;
7. the USPTO then repeatedly misinformed Applicant's Counsel, upon Counsel's periodic telephone inquiries regarding the status of the Application during the more than ten (10) month period referenced in paragraph 6 above, thereby misleading Counsel regarding the Official Status of the Application, the details of Applicant's position in this regard being documented in the Petition, Reply and Response identified in paragraph 2 above;
8. the USPTO repeatedly misinformed Applicant's Counsel via status indications on Counsel's PRIVATE PAIR account as to the Official Status of this Application, pursuant to Counsel's timely and diligent efforts to monitor the same, the details of such misinformation being documented in the Petition, Reply and Response identified in paragraph 2 above;
9. unreasonably long delays were experienced by Applicant, upon revival of the Application on August 23, 2007, in the USPTO's mailing of a Notice To File Missing Requirements almost nine (9) months later, i.e., on May 8, 2008; and
10. unreasonably long delays were experienced by Applicant, upon revival of the Application on August 23, 2007, in the USPTO's (i) forwarding this Application to an Examining Group, (ii) assigning the Application to an Examiner, and (iii) issuing a First Office Action, such Office Action being a Restriction Requirement mailed over two (2) years later on September 8, 2009.

Based on the above-identified USPTO delays, which Applicant submits are extraordinary, unreasonable, and, in any event, not in the ordinary course of delays attendant processing of a U.S. Patent Application, Applicant respectfully requests a just and equitable accounting, in terms of Patent Term Adjustment, based on the following:

- (i) the three hundred and eighteen (318) day delay from Applicant's submission of the Application on March 14, 2005 to January 26, 2006, the actual date of Abandonment, during which delay the USPTO repeatedly misinformed Applicant's Counsel regarding the status of this Application both on PRIVATE PAIR and via the PCT Help Desk,
- (ii) the seventy-four (74) day delay from Abandonment of the Application on January 26, 2006 to the Patent Office's mailing of a Notice Of Abandonment on April 10, 2006;
- (iii) the two hundred and fifty-eight (258) day delay from revival of the Application on August 23, 2007 to the USPTO's mailing of a Notice To File Missing Requirements on May 8, 2008;
- (iv) the six hundred and six (606) day delay from Applicant's filing of the Petition To Withdraw Holding Of Abandonment on November 19, 2006 to July 18, 2008, the date on which PCT Legal Administration withdrew its previous Withdrawal Of Notice Of Abandonment Dated April 10, 2006; and/or
- (v) the seven hundred and forty-six (746) day delay from revival of the Application on August 23, 2007 to the USPTO's mailing of a Restriction Requirement over two (2) years later on September 8, 2009.

Again, since PCT Legal Administration never ruled on the operative facts of Applicant's Petition, despite his subsequent Reply, Response and Request, as identified in paragraph 2 above, Applicant believes he is entitled to a Patent Term Adjustment for the delays attendant such Petitions. Indeed, Applicant made plain that the issue at hand was not one of proof of submission of the Filing Fee, but rather the false and misleading information provided to Applicant's Counsel by the PCT Help Desk and on PRIVATE PAIR which lead Applicant to take no corrective action and resubmit the Filing Fee in a timely fashion.

Applicant respectfully submits that a Patent Term Adjustment of at least nine hundred and ninety-eight (998) days in appropriate, under the circumstances described

herein. The Patent to issue is not subject to a Terminal Disclaimer. A Credit Card Payment Form in the amount of \$200.00 for filing this Request is attached, in accordance with 37 C.F.R. § 1.18(e).

Respectfully submitted,

Dated: August 30, 2010

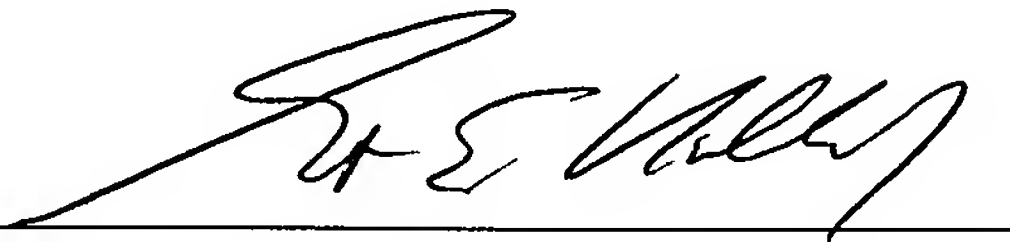
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, in an envelope with sufficient postage addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on August 30, 2010

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Signature



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